



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

March 5, 2014

The Honorable Maggie L. McIntosh, Chairman  
House Environmental Matters Committee  
Room 251  
House Office Building  
Annapolis, MD 21401-1991

Re: House Bill 1254 – *Environment – Dental Amalgam – Reduction in Use*

Dear Chairman McIntosh and Members of the Committee:

The Maryland Department of the Environment (MDE or “the Department”) has reviewed House Bill 1254 *Environment – Dental Amalgam – Reduction in Use*, and we would like to provide our support for increased mercury diversion but would like to share our concerns regarding the bill.

The Department vigorously supports removal of mercury from the environment and the safe removal of mercury hazards that can impact public health. The Department maintains a fish consumption advisory program for this reason, and has set pollution limits that require the removal of mercury to restore waters of the State that are impaired by this pollutant. We continue to seek ways to reduce the use of mercury, encourage the use of mercury alternatives where ever possible, and would like to see more collection and proper handling of mercury dental amalgam in all dental offices in Maryland.

House Bill 1254 would amend Title 6, Subtitle 9 of the Environment Article by adding a new § 6-910 regarding dental amalgam. The bill would: establish a State policy to reduce the use of dental amalgam; require a manufacturer or wholesaler of dental amalgam to submit to the Department by September 20, 2014 a plan to reduce the use of dental amalgam; require a manufacturer or wholesaler to post its plan on its website; prohibit a manufacturer or wholesaler from selling dental amalgam in the State after October 1, 2014, unless it has submitted a dental amalgam use reduction plan; and require a manufacturer or wholesaler to submit to the Department by March 30, 2015, an annually thereafter, a report on the amount of dental amalgam sold in Maryland in the previous year. The report required under the bill must be submitted annually until dental amalgam is no longer used in the State.

The Department has the following concerns regarding House Bill 1254:

First, the term “dental amalgam” is not defined, and should be.

Second, as written, the bill prohibits manufacturers and wholesalers from selling dental amalgam or offering it for sale unless they submit the required plan to reduce the use of dental amalgam. This prohibition is not limited to the sale of dental amalgam in Maryland; rather, as written, this provision would apply to the sale by these manufacturers and wholesalers of dental amalgam anywhere.



Third, in subsection (E), it is stated “Beginning March 30, 2015, and annually thereafter until dental amalgam is no longer used in the State, a manufacturer or wholesaler shall submit a report to the Department identifying the amount of mercury in dental amalgam that was sold in the State in the previous year.” This is problematic because: 1) it is unclear how a manufacturer or wholesaler will determine when dental amalgam is no longer used in the State; 2) it may not be possible to identify the amount of mercury in dental amalgam that was sold; and 3) even if manufacturers and wholesalers know the amount of mercury in the dental amalgam they sold, they may not know the amount of dental amalgam sold by others in Maryland. However, as written, each manufacturer or wholesaler must report the amount of mercury in *all* dental amalgam sold in the State.

Although the intent of the bill is to reduce the use of dental amalgam in Maryland, it is unlikely that requiring manufacturers and wholesalers of dental amalgam to produce plans for reducing its use is the best way to accomplish this, as they have an interest in selling these products to dentists. In addition, the bill requires no specific elements to be included in the plans, nor does the legislation require Departmental approval of the plans. Therefore, the content of the plans would be left to the discretion of the manufacturer or wholesaler.

The Department currently regulates the use of radiological equipment used in dental offices, but does not regulate manufacturers or wholesalers of dental amalgam and has no information regarding the number or identities of parties that would be regulated under this bill. The Department would have to identify these parties, conduct outreach regarding the bill’s requirements, make a determination as to when dental amalgam is no longer used in the State, and enforce this legislation. The Department does not currently have staff to take on these duties nor is there a fund source to support these activities in the bill.

The Department supports the removal of mercury from the environment and increased recycling of mercury products. Although the stated goal of this bill – to reduce the use of dental amalgam in the State – is laudable, careful thought and stakeholder input are necessary to determine the best ways to accomplish that goal, including discussions regarding a requirement for dentists to use mercury amalgam separators. Over the years, several successful mercury reduction programs have been approved by the General Assembly, such as those pertaining to thermometers, thermostats, and mercury auto switches. These were the result of valuable stakeholder input.

Thank you for your consideration. We will continue to monitor House Bill 1254 during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [jeffrey.fretwell@maryland.gov](mailto:jeffrey.fretwell@maryland.gov).

Sincerely,



Jeffrey Fretwell

cc: The Honorable Alfred C. Carr, Jr.  
Mr. Horacio Tablada, Director, Land Management Administration